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HOUSE BILL 638

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO TAXATION; PROVIDING GROSS RECEIPTS TAX DEDUCTIONS
FOR CERTAIN HEALTH CARE PROVIDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
AND HEALTH CARE SERVICES.--

A. Receipts from payments by the United States
government or any agency thereof for provision of medical and
other health services by medical doctors, osteopathic
physicians, doctors of oriental medicine, athletic trainers,
chiropractic physicians, counselor and therapist practitioners,
dentists, massage therapists, naprapaths, nurses,
nutritionists, dietitians, occupational therapists,

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1 optometrists, pharmacists, physical therapists, psychologists,
2 radiologic technologists, respiratory care practitioners,
3 audiologists, speech-language pathologists and podiatrists or
4 of medical, other health and palliative services by hospices or
5 nursing homes to medicare beneficiaries pursuant to the
6 provisions of Title 18 of the federal Social Security Act may
7 be deducted from gross receipts.

8 B. Receipts from payments by a third-party
9 administrator of the federal TRICARE program for provision of
10 medical and other health services by medical doctors and
11 osteopathic physicians to covered beneficiaries may be deducted
12 from gross receipts.

13 C. Receipts from payments by the United States
14 government or any agency thereof for medical services provided
15 by a clinical laboratory to medicare beneficiaries pursuant to
16 the provisions of Title 18 of the federal Social Security Act
17 may be deducted from gross receipts [~~pursuant to the following~~
18 ~~schedule:~~

19 ~~(1) from July 1, 2003 through June 30, 2004,~~
20 ~~thirty-three and one-third percent of the receipts may be~~
21 ~~deducted;~~

22 ~~(2) from July 1, 2004 through June 30, 2005,~~
23 ~~sixty-six and two-thirds percent of the receipts may be~~
24 ~~deducted; and~~

25 ~~(3) after June 30, 2005, one hundred percent~~

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1 ~~of the receipts may be deducted].~~

2 D. Receipts from payments by the United States
3 government or any agency thereof for medical, other health and
4 palliative services provided by a home health agency to
5 medicare beneficiaries pursuant to the provisions of Title 18
6 of the federal Social Security Act may be deducted from gross
7 receipts [~~pursuant to the following schedule:~~

8 ~~(1) from July 1, 2003 through June 30, 2004,~~
9 ~~thirty-three and one-third percent of the receipts may be~~
10 ~~deducted;~~

11 ~~(2) from July 1, 2004 through June 30, 2005,~~
12 ~~sixty-six and two-thirds percent of the receipts may be~~
13 ~~deducted; and~~

14 ~~(3) after June 30, 2005, one hundred percent~~
15 ~~of the receipts may be deducted].~~

16 E. For the purposes of this section:

17 (1) "athletic trainer" means a person licensed
18 as an athletic trainer pursuant to the provisions of Chapter
19 61, Article 14D NMSA 1978;

20 (2) "chiropractic physician" means a person
21 who practices chiropractic as defined in the Chiropractic
22 Physician Practice Act;

23 ~~{1}~~ (3) "clinical laboratory" means a
24 laboratory accredited pursuant to 42 USCA 263a;

25 (4) "counselor and therapist practitioner"

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1 means a person licensed to practice as a counselor or therapist
2 pursuant to the provisions of Chapter 61, Article 9A NMSA 1978;

3 (5) "dentist" means a person licensed to
4 practice as a dentist pursuant to the provisions of Chapter 61,
5 Article 5A NMSA 1978;

6 (6) "doctor of oriental medicine" means a
7 person licensed as a physician to practice acupuncture or
8 oriental medicine pursuant to the provisions of Chapter 61,
9 Article 14A NMSA 1978;

10 [~~(2)~~] (7) "home health agency" means a for-
11 profit entity that is licensed by the department of health and
12 certified by the federal centers for medicare and medicaid
13 services as a home health agency and certified to provide
14 medicare services;

15 [~~(3)~~] (8) "hospice" means a for-profit entity
16 licensed by the department of health as a hospice and certified
17 to provide medicare services;

18 (9) "massage therapist" means a person
19 licensed to practice massage therapy pursuant to the provisions
20 of Chapter 61, Article 12C NMSA 1978;

21 [~~(4)~~] (10) "medical doctor" means a person
22 licensed as a physician to practice medicine pursuant to the
23 provisions of the Medical Practice Act;

24 (11) "naprapath" means a person licensed as a
25 naprapath pursuant to the provisions of Chapter 61, Article 12E

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1 NMSA 1978;

2 (12) "nurse" means a person licensed as a
3 registered nurse pursuant to the provisions of Chapter 61,
4 Article 3 NMSA 1978;

5 [~~(5)~~] (13) "nursing home" means a for-profit
6 entity licensed by the department of health as a nursing home
7 and certified to provide medicare services;

8 (14) "nutritionist" or "dietitian" means a
9 person licensed as a nutritionist or dietitian pursuant to the
10 provisions of Chapter 61, Article 7A NMSA 1978;

11 (15) "occupational therapist" means a person
12 licensed as an occupational therapist pursuant to the
13 provisions of Chapter 61, Article 12A NMSA 1978;

14 [~~(6)~~] (16) "osteopathic physician" means a
15 person licensed as an osteopathic physician pursuant to the
16 provisions of Chapter 61, Article 10 NMSA 1978;

17 (17) "optometrist" means a person licensed to
18 practice optometry pursuant to the provisions of Chapter 61,
19 Article 2 NMSA 1978;

20 (18) "pharmacist" means a person licensed as a
21 pharmacist pursuant to the provisions of Chapter 61, Article 11
22 NMSA 1978;

23 (19) "physical therapist" means a person
24 licensed as a physical therapist pursuant to the provisions of
25 Chapter 61, Article 12D NMSA 1978;

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1 [~~7~~] (20) "podiatrist" means a person
2 licensed as a podiatrist pursuant to the provisions of the
3 Podiatry Act; [~~and~~]

4 (21) "psychologist" means a person licensed as
5 a psychologist pursuant to the provisions of Chapter 61,
6 Article 9 NMSA 1978;

7 (22) "radiologic technologist" means a person
8 licensed as a radiologic technologist pursuant to the
9 provisions of Chapter 61, Article 14E NMSA 1978;

10 (23) "respiratory care practitioner" means a
11 person licensed as a respiratory care practitioner pursuant to
12 the provisions of Chapter 61, Article 12B NMSA 1978;

13 (24) "speech-language pathologist" means a
14 person licensed as a speech-language pathologist pursuant to
15 the provisions of Chapter 61, Article 14B NMSA 1978; and

16 [~~8~~] (25) "TRICARE program" means the program
17 defined in 10 U.S.C. 1072(7)."

18 Section 2. Section 7-9-93 NMSA 1978 (being Laws 2004,
19 Chapter 116, Section 6, as amended) is amended to read:

20 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
21 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

22 A. Receipts from payments by a managed health care
23 provider or health care insurer for commercial contract
24 services or medicare part C services provided by a health care
25 practitioner that are not otherwise deductible pursuant to

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1 another provision of the Gross Receipts and Compensating Tax
2 Act may be deducted from gross receipts, provided that the
3 services are within the scope of practice of the person
4 providing the service. Receipts from fee-for-service payments
5 by a health care insurer may not be deducted from gross
6 receipts. The deduction provided by this section shall be
7 separately stated by the taxpayer.

8 B. For the purposes of this section:

9 (1) "commercial contract services" means
10 health care services performed by a health care practitioner
11 pursuant to a contract with a managed health care provider or
12 health care insurer other than those health care services
13 provided for medicare patients pursuant to Title 18 of the
14 federal Social Security Act or for medicaid patients pursuant
15 to Title 19 or Title 21 of the federal Social Security Act;

16 (2) "health care insurer" means a person that:

17 (a) has a valid certificate of authority
18 in good standing pursuant to the New Mexico Insurance Code to
19 act as an insurer, health maintenance organization or nonprofit
20 health care plan or prepaid dental plan; and

21 (b) contracts to reimburse licensed
22 health care practitioners for providing basic health services
23 to enrollees at negotiated fee rates;

24 (3) "health care practitioner" means:

25 (a) a chiropractic physician licensed

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1 pursuant to the provisions of the Chiropractic Physician
2 Practice Act;

3 (b) a dentist or dental hygienist
4 licensed pursuant to the Dental Health Care Act;

5 (c) a doctor of oriental medicine
6 licensed pursuant to the provisions of the Acupuncture and
7 Oriental Medicine Practice Act;

8 (d) an optometrist licensed pursuant to
9 the provisions of the Optometry Act;

10 (e) an osteopathic physician licensed
11 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
12 or an osteopathic physician's assistant licensed pursuant to
13 the provisions of the Osteopathic Physicians' Assistants Act;

14 (f) a physical therapist licensed
15 pursuant to the provisions of the Physical Therapy Act;

16 (g) a physician or physician assistant
17 licensed pursuant to the provisions of Chapter 61, Article 6
18 NMSA 1978;

19 (h) a podiatrist licensed pursuant to
20 the provisions of the Podiatry Act;

21 (i) a psychologist licensed pursuant to
22 the provisions of the Professional Psychologist Act;

23 (j) a registered lay midwife registered
24 by the department of health;

25 (k) a registered nurse or licensed

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1 practical nurse licensed pursuant to the provisions of the
2 Nursing Practice Act;

3 (l) a registered occupational therapist
4 licensed pursuant to the provisions of the Occupational Therapy
5 Act;

6 (m) a respiratory care practitioner
7 licensed pursuant to the provisions of the Respiratory Care
8 Act;

9 (n) a speech-language pathologist or
10 audiologist licensed pursuant to the Speech-Language Pathology,
11 Audiology and Hearing Aid Dispensing Practices Act;

12 (o) a professional clinical mental
13 health counselor, marriage and family therapist or professional
14 art therapist licensed pursuant to the provisions of the
15 Counseling and Therapy Practice Act who has obtained a master's
16 degree or a doctorate; ~~and~~

17 (p) an independent social worker
18 licensed pursuant to the provisions of the Social Work Practice
19 Act; and

20 (q) a clinical laboratory that is
21 accredited pursuant to 42 U.S.C. Section 263a but that is not a
22 laboratory in a physician's office or in a hospital defined
23 pursuant to 42 U.S.C. Section 1395x;

24 (4) "managed health care provider" means a
25 person that provides for the delivery of comprehensive basic

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1 health care services and medically necessary services to
2 individuals enrolled in a plan through its own employed health
3 care providers or by contracting with selected or participating
4 health care providers. "Managed health care provider" includes
5 only those persons that provide comprehensive basic health care
6 services to enrollees on a contract basis, including the
7 following:

- 8 (a) health maintenance organizations;
- 9 (b) preferred provider organizations;
- 10 (c) individual practice associations;
- 11 (d) competitive medical plans;
- 12 (e) exclusive provider organizations;
- 13 (f) integrated delivery systems;
- 14 (g) independent physician-provider
15 organizations;
- 16 (h) physician hospital-provider
17 organizations; and
- 18 (i) managed care services organizations;
- 19 and

20 (5) "medicare part C services" means services
21 performed pursuant to a contract with a managed health care
22 provider for medicare patients pursuant to Title 18 of the
23 federal Social Security Act."

24 Section 3. EFFECTIVE DATE.--The effective date of the
25 provisions of this act is July 1, 2007.

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